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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,437	04/11/2006	Satomi Kunieda	20027/0203865-US0	8953
7278	7590	02/18/2009		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER DEES, NIKKI H	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 02/18/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,437	Applicant(s) KUNIEDA, SATOMI	
	Examiner Nikki H. Dees	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11 April 2006, 3 June 2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informalities: in line 2, delete the “,” between ginger and oleoresin. Appropriate correction is required.

Claim Rejections - 35 USC § 102

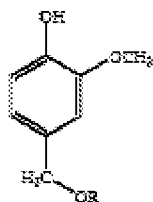
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishida et al. (US 2002/0013235 A1).
4. Ishida et al. teach the compound below, wherein R represents a C₁₋₆ alkyl. The compound may be used to enhance cooling flavors (Abstract).

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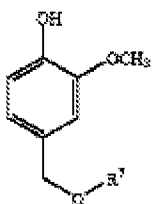
A preferred embodiment of the invention is vanillyl-n-butyl ether [0008]. This is the same compound of Applicants claims 2 and 4.

5. The compound may occur in combination with saccharides (sweetenings) or inorganic salts (salty seasonings), as well as flavors and spices. Spices specifically taught include capsaicin and other warming spices, as well as cooling compounds. The compound may be included in foods and drinks [0027], [0032]. A method incorporating the flavor enhancer in foods and beverages is taught in example 8.

6. The claims to a flavor enhancer and a method for enhancing the flavor occur in the preamble. As the intended use of the compound as a flavor enhance does not impart any structural difference to the claimed compound, the compound of the prior art is considered to meet the instant claims to a flavor enhancer and a method for enhancing the flavor of a food or beverage. The prior art anticipates Applicant's claims 1-9.

7. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumamoto et al. (US 2002/0119231 A1).

8. Kumamoto et al. teach the compound below for inclusion in foods and drinks



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They specifically teach the embodiment where R^7 is 4 carbon atoms, vanillyl butyl ether [0030], [0031].

9. The compound may be used in foods and drinks in combination with a large number of flavorings and spices, as well as sugars. Though not specifically taught as salty or umami flavors, meat extracts are included in the flavors for inclusion in the foodstuff. Other flavors specifically taught include ginger and pepper flavor [0041], [0044].

10. The claims to a flavor enhancer and a method for enhancing the flavor occur in the preamble. As the intended use of the compound as a flavor enhance does not impart any structural difference to the claimed compound, the compound of the prior art is considered to meet the instant claims to a flavor enhancer and a method for enhancing the flavor of a food or beverage. The prior art anticipates Applicant's claims 1-9.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikki H. Dees whose telephone number is (571) 270-3435. The examiner can normally be reached on Monday-Friday 7:30-5:00 EST (second Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nikki H. Dees/
Examiner, Art Unit 1794
/Lien T Tran/
Primary Examiner, Art Unit 1794

Nikki H. Dees
Examiner
Art Unit 1794